



General Liability Clarification Letters

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Fact Sheet #11

January, 2006

Businesses and individuals who own, plan to purchase, redevelop or sell contaminated property are often concerned about environmental liability. Wisconsin state laws and regulations describe situations in which a business or individual can be held responsible for the investigation and cleanup of a contaminated property, as well as when they would be exempt from that responsibility.

Investigations and cleanups of contaminated property in Wisconsin are subject to the Hazardous Substance Spill Law, under s. 292.11, Wis. Stats. This law requires persons who cause, possess (i.e. own) or control a hazardous substance to take the necessary actions to minimize any harmful effects from the discharge, and to restore – to the extent practical – the environment. This law applies not only to those individuals, but also to any owner of the property, even if the owner did not cause the discharge.

In some cases, parties want additional clarification regarding their potential responsibility and liability for contamination on a property. State law gives the Department of Natural Resources (DNR) specific authority to clarify who is responsible for environmental pollution at a property.

Upon request, the DNR can assist an individual determine whether he/she is, or may become, liable for the environmental contamination of a property and to issue letters concerning the liability for environmental contamination to a person owning, planning to purchase, or leasing a property.

These general liability clarification letters help clarify, for a specific person and property, the person's liability for investigation and cleanup of environmental contamination on the property.

This fact sheet describes when these general liability clarification letters may be issued and how parties can request these letters from the DNR's Remediation and Redevelopment (RR) Program.

What Are The Benefits Of A General Liability Clarification Letter?

These letters may provide a number of benefits, including:

- easing the liability concerns of a lender, seller, developer, or purchaser;
- providing reassurance that parties fully understand their responsibilities during the redevelopment of an environmentally impaired piece of property;
- helping understand specific cleanup requirements for different environmental concerns identified at a property;
- assisting in securing a loan; and
- helping parties proceed with redevelopment.

Please keep in mind that a party requesting a general liability clarification letter does not receive any special liability protection when he/she receives a letter. The letter simply explains the DNR's interpretation of a person's liability at a specific property, given the facts presented to the DNR.



Wisconsin Department of Natural Resources
P.O. Box 7921 Madison, WI 53707
<http://dnr.wi.gov/org/aw/rr>



Who Can Request A General Liability Clarification Letter?

General liability clarification letters are usually requested by local governments, lenders, other businesses and individuals who are buying, selling or redeveloping brownfield properties.

The DNR also provides other types of clarification letters regarding liability exemptions for local governments, individuals who lease property, and for property owners who are affected by off-site contamination. Please see the following web page for more information: <http://dnr.wi.gov/org/aw/rr/liability/index.htm>.

When Would Someone Request A General Liability Clarification Letter?

People often request a general liability clarification letter when they want to know the liability status or learn about the cleanup requirements for a property.

There are a variety of situations where a clarification letter is helpful. Common questions that may assist an individual determine if they want a clarification letter include:

- What is my liability if I take title to this property?
- What is my liability when neighbors won't allow me access for investigation or clean-up activities?
- What investigations and cleanups have already taken place on the property and how does that affect my liability?
- What is my liability if a previous owner is conducting the cleanup?
- When can the DNR re-open a closed case?
- What is the U.S. Environmental Protection Agency's (EPA) potential interest in my property?

How Do I Request A General Liability Clarification Letter?

To request a general liability clarification letter, parties should first download the *Technical*

Assistance and Environmental Liability Clarification Request form (Form #4400-237), available at the following link: <http://dnr.wi.gov/org/aw/rr/archives/pubs/4400-237.pdf>. The form can be used to help clarify liability on a wide range of liability issues affecting local governments, lenders and other parties.

After completing the request form, individuals should attach any relevant documentation and the appropriate fee (see below for fee information), and mail the documents to the Remediation and Redevelopment (RR) program assistant in the DNR regional office where the property is located. Please check the map at the end of this fact sheet to locate the DNR region and office where your property is located.

Include as much information as you feel is relevant to your questions. However, please note that determinations by the DNR may depend on adequate environmental data.

Does The DNR Charge A Fee For General Liability Clarification Letters?

Yes. The DNR was given authority to charge fees for assurance letters, including general liability clarification letters, per s. 292.55, Wis. Stats.

Persons requesting a general liability clarification letter are required to pay in advance a fee of \$500 – in a check made out to the DNR – that accompanies the application form.

Current information on fees is available at the following RR Program web page: http://dnr.wi.gov/org/aw/rr/Services_Fees/index.htm.

For More Information

For more information, please contact an RR staff person in one of the five DNR regional offices listed on page three.

Also, the RR Program provides other clarification letters, and the *Technical Assistance and Environmental Liability Clarification Request* form can be used for many of these letters. Please see the following web link for more information: <http://dnr.wi.gov/org/aw/rr/liability/index.htm>.

DNR Regional Offices

DNR Northern Region

Department of Natural Resources
107 Sutliff Avenue
Rhineland WI 54501
715-365-8990

DNR Northeast Region

Department of Natural Resources
2984 Shawano Avenue
Green Bay WI 54307
920-662-5168

DNR South Central Region

Department of Natural Resources
3911 Fish Hatchery Road
Fitchburg, WI 53711
608-275-3212

DNR Southeast Region

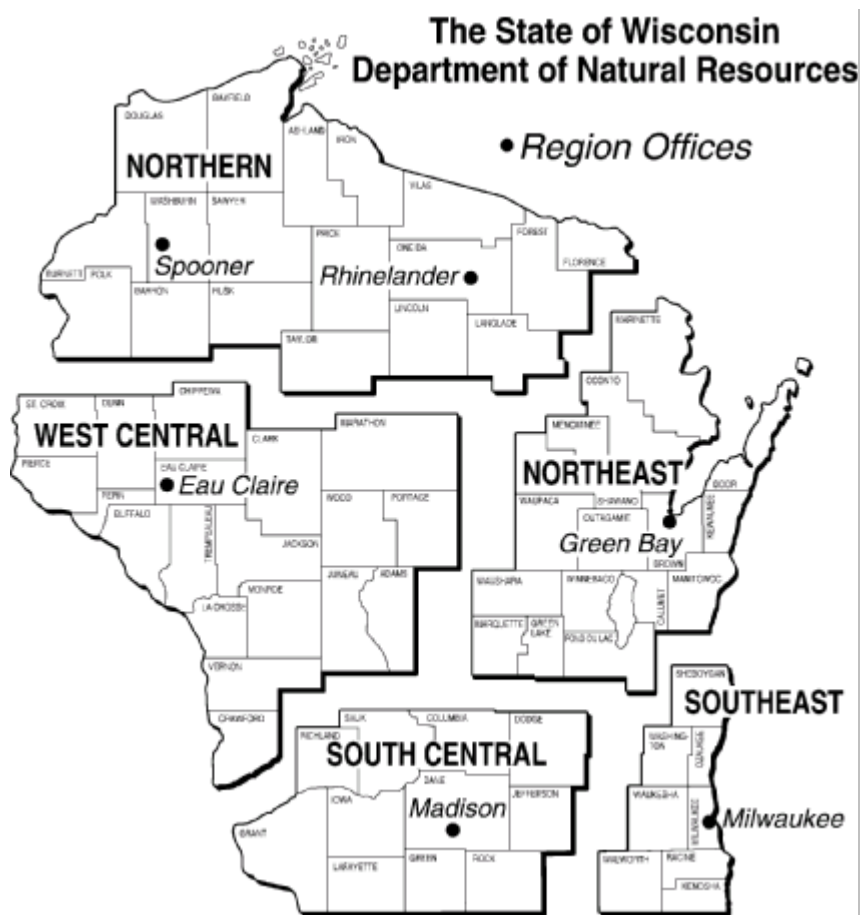
Department of Natural Resources
2300 North Martin Luther King Drive
Milwaukee, WI 53212
414-263-8688

DNR West Central Region

Department of Natural Resources
1300 Clairemont Ave.
Eau Claire, WI 54702
715-839-3770



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This document contains information about certain state statutes and administrative rules but does not necessarily include all of the details found in the statutes and rules. Readers should consult the actual language of the statutes and rules to answer specific questions.

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This publication is available in alternative format upon request. Please call 608-267-3543 for more information.